



Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application	09/671,089	
	Filing Date	September 27, 2000	
	First Named	Daniel O'Mahony et al.	
	Group Art Unit	1653	
	Examiner Name	S. K. Snedden	
Total Number of Pages in This Submission	12	Attorney Docket Number	P26,479-A USA

RECEIVED

JAN 09 2003

TECH CENTER 1600/2900

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Marilou E. Watson
Signature	<i>Marilou E. Watson</i>
Date	December 30, 2002

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date: December 30, 2002			
Typed or printed name	Marilou E. Watson	Date	December 30, 2002
Signature	<i>Marilou E. Watson</i>		

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



RECEIVED
JAN 09 2003
TECH CENTER 1600/2303

December 30, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re/ application of Daniel O'Mahony
and Imelda Lambkin
Application No. 09/671,089
Filed September 27, 2000

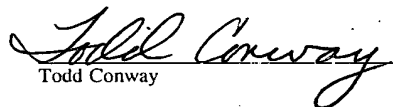
Examiner S.K. Snedden
Art Unit 1653
Confirmation No. 6019

MEMBRANE TRANSLOCATING PEPTIDE DRUG DELIVERY SYSTEM

(Atty. Docket No. P26,479-A USA)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Washington, D.C. 20231, on Monday, December 30, 2002


Todd Conway

Commissioner for Patents
Washington, D.C. 20231

Reply to Examiner's Requirement for Restriction
Election, As Set Forth in the Action Dated September 30, 2002

Sir:

In response to the Examiner's Requirement for Restriction, as set forth in the Action dated September 30, 2002, applicant elects hereby to prosecute the claims of Group I, that is, Claims 1 to 6. Applicants confirm their right to file a divisional application which includes the non-elected claims (Claims 7 to 11). Although the Examiner refers to an "Invention IV" in the detailed action, Applicants respectfully advise that no claims of the present invention have been assigned to an "Invention IV".

Applicants traverse respectfully the Restriction Requirement.

The Examiner's attention is directed to MPEP §803, which states (emphasis added):

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP §§ 802.01, §§ 806.04, §§ 808.01) or distinct as claimed (see MPEP §§ 806.05 - §§ 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP §§ 803.02, §§ 806.04(a) - §§ 806.04(i), §§ 808.01(a), and §§ 808.02).

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

Applicants respectfully submit that the Examiner's Action does not explain why it would be "a serious burden" for the Examiner to perform a search and examination of the application in its entirety. Accordingly, the Examiner's Requirement does not satisfy an essential criteria for a proper Requirement for Restriction, as set forth in the MPEP.

Furthermore, applicants respectfully submit that it would not be a serious burden for the Examiner to search and examine the application in its entirety. All of the claims of the present application share a major common element. This common element is a membrane translocating peptide (MTLP). Since this common element is shared by the claims of Groups

I, II, and III, it would not be a serious burden for the Examiner to search and examine the claims of Groups I, II, and III.

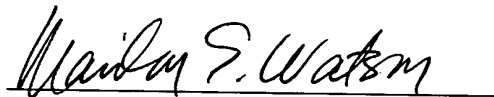
In view of the above, applicants request respectfully that the Examiner withdraw the Restriction Requirement.

The Office Action includes also an additional requirement of election of peptides to which the claims must be restricted.

Applicants elect hereby SEQ ID NOS: 2 to 13, 16, and 23 to 24. These peptides share the function of comprising membrane translocating amino acid sequences. From a structural perspective, as is readily apparent from Table 1 (pages 15 to 16 of the present application), these peptides also share high levels of identity with each other.

A favorable action on the merits is requested respectfully. The Commissioner is authorized hereby to charge any additional fees or credit any overpayment associated with this Reply to Deposit Account No. 19-5425. A duplicate of this Reply is enclosed. A Petition for an extension of time to respond to the Action is enclosed also.

Respectfully submitted,



Marilou E. Watson

Reg. No. 42,213

Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950
Telephone - (215) 923-4466
Facsimile - (215) 923-2189